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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,613

10/18/2005

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MAT-8702US

1982

23122 7590 09/15/2009  
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EXAMINER

LUONG, ALAN H

ART UNIT

PAPER NUMBER

2427

MAIL DATE

DELIVERY MODE

09/15/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,613	<b>Applicant(s)</b> KUSUMOTO, NORITAKA	
	<b>Examiner</b> ALAN LUONG	<b>Art Unit</b> 2427	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4 and 9-12 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

Applicant cancelled claims 2-3 and 5-8, added new claims 9-12. Claims 1, 4 and 9-12 are pending application.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,563,515 to **Reynolds** et al., in view of US 2003/0084450 by **Thurston** et al., further in view of US Patent 5936611 to **Yoshida**

3. **Regarding to claims 1:** Fig. 3 of Reynolds illustrates **a picture receiver** [40] comprising:

**a program information accumulating unit** [44] associates with a storage device [45] **configured to accumulate program information about programming available for the picture receiver to receive**(i.e. television programming and program guide information) (**Reynolds, col. 5 lines 43-46, col. 6 lines 18-24, 32-36 and 51-53**)

Fig. 5a, 5b of Reynolds shows **a viewing information obtaining unit** [70] associates with set-top box [44] **configured to obtain viewing information about programming which the picture receiver has received** (col. 7 lines 41-49, 56-67, col. 8 lines 1-7).

However, Reynolds reference is missing “a program recommending unit configured to recommend a program that is available to be received based on the obtained viewing information and the accumulated program information as a recommended program”.

In an analogous art directed toward a similar problem namely improving the results from a recommended program on the EPG display. Fig. 1 of Thurston illustrates **a program recommending unit (i.e. EPG program) configured to recommend a program (i.e. TV program) that is available to be received** by [140] from [110] **based on the obtained viewing information and the accumulated program information (i.e. viewing history information) as a recommended program** (*The Recommended Program Information is based upon the User Profile of the user receiving the Recommended Program Information that contains user identification or characteristic information, along with viewing history information. An Electronic Program Guide (EPG) provides a viewer/user with a list of recommended programs which has been constructed by a Service Provider and downloaded to the user's set-top box*) **(Thurston, Abstract, ¶¶0016-¶¶0024).** Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention was made to modify a picture receiver of Reynolds with a recommended program as taught by Thurston, in order to consider a wider variety of programs that may in fact be of interest. **(Thurston, ¶0009).**

Further, Fig. 6a, 6b of Reynolds shows **a picture displaying unit [48] configured to display the recommended program (i.e. interested in a program on channel 11 on sub- window [80]) and currently viewed program simultaneously (i.e. channel 5 on main-screen [72]), (Reynolds, col. 8 lines 23-48), only when the program**

**recommending unit judges that the recommended program is other than the currently viewed program** (*i.e. video display on main-screen for channel 5*), (*i.e. sub screen [80] displays the different program that is browsed by user remote control cursor key 54; example: "STAR TREK" at channel 11 of Fig. 6b or "DEEP SPACE NINE" at channel 14 of Fig. 7*) (**Reynolds, col. 8 line 49-col. 9 line 12**),

**wherein for selecting either the recommended program or the currently viewed program by using key 51 on a remote controller [50] of Fig. 3, (Reynolds, col. 6 lines 61-65), (example: using swap key 57 of Fig. 4) (Reynolds, col. 3 lines 6-15, col. 7 lines 25-31, col. 8 lines 23-34).**

However, Reynolds and Thurston fail to disclose "*the picture displaying unit displays a remote controller operation guide simultaneously with the recommended program and currently viewed program*"

In an analogous art directed toward a similar problem namely improving the results from "*the picture displaying unit displays a remote controller operation guide simultaneously with the recommended program and currently viewed program*". Fig. 7, 8 of Yoshida illustrate the image of the body and the keypad similar to those of the remote control hand unit 10 of Fig. 2, as **a remote controller operation guide** may be displayed in the picture displaying unit. The image of keypad may reflect the button arrangement of the actual remote control unit 10 where displayed simultaneously in **the picture displaying unit.**(Yoshida, Fig. 2, col. 6 line 4 to col. 7 line 38). Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention was made to modify **the picture displaying unit** of Reynolds and the recommended program on

EPG list of Thurston including **a remote controller operation guide** as taught by Yoshida in order to provide user misplaces or loses the manual, he/she could operate an apparatus he/she wants to use.. **(Yoshida, col. 1 lines 44-48).**

**Regarding to claim 4:** a program recommending method, merely repeats the same limitations of claim 1; therefore, claim 4 is rejected on the same ground as claim 1 and is unpatentable over Reynolds, Thurston and Yoshida.

4. **Claims 9 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,563,515 to **Reynolds** et al., in view of US 2003/0084450 by **Thurston** et al. and US Patent 5936611 to **Yoshida**, further in view of US Pub.2008/0184293 by **Yuen et al.**

**Regarding to claims 9:** The picture receiver of claim 1, where Fig. 7, 8 of Yoshida illustrate the image of the body and the keypad similar to those of the remote control hand unit 10 of Fig. 2, as **a remote controller operation guide**. Additionally, Yoshida discloses **the remote controller operation guide includes a first information** (i.e. information key) **and a second information** (i.e. one of multiple functional descriptions of keys on the remote control as is illustrated on Table-1) **about the remote controller, the first information indicates a first key of the remote controller (i.e. key [41]), the second information indicates a second key of the remote controller (i.e. TV/Video key); (Yoshida, col. 6 lines 14-65)**

However, Reynolds, Thurston and Yoshida fail to disclose **when the first key is pressed, the recommended program is displayed and the currently viewed**

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**program is not displayed and when the second key is pressed, the currently viewed program is displayed and the recommended program is not displayed.**

In an analogous art directed toward a similar problem namely improving the results from **when the first key is pressed, the recommended program is displayed and the currently viewed program is not displayed, and when the second key is pressed, the currently viewed program is displayed in full screen and the recommended program is not displayed.** Yuen discloses a remote control functional key pad of remote control [26] as displayed in Fig. 2 ( $\P$ 0024); **when the first key (i.e. GUIDE/TV key [28]) is pressed, PIP chip turn ON, the recommended program (i.e. highlighted EPG channel [60]) is displayed** on PIP window [50] of display [24], i.e. ABC channel 7 as illustrated in Fig. 3) **and the currently viewed program (i.e. previous PBS channel 28 is displayed in full screen when GUIDE/TV key is not pressed and EPG information are displayed on listing area [58] is not displayed on TV screen window of display [24].** (Yuen,  $\P$ 0028- $\P$ 0029)

**when the second key is pressed (i.e. PIP key [63] is pressed while GUIDE/ TV key operated, PIP chip turn off is well-known in the art), the currently viewed program is displayed** in full screen (i.e. program source is Tuner [12] is selected by switch [14]) **and the recommended program is not displayed** as illustrated in Fig. 12A-12B.

(Yuen,  $\P$ 0037). Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention was made to modify **a remote controller operation guide of Yoshida on the picture displaying unit of Reynolds** and the recommended program on EPG list of Thurston including the functional key pads as taught by Yuen to

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provide a viewer with the capability to control which program is displayed in the  window in the guide mode in the same manner the viewer would in the normal television viewing mode. This includes switching between tuned channels or between the outputs of the tuner and the VCR. (**Yuen**, ¶0006)

**Regarding to claims 11:** The program recommending method of claim 4, merely repeats the same limitations of claim 9; therefore, claim 11 is rejected on the same ground as claim 9 and is unpatentable over Reynolds, Thurston, Yoshida and Yuen.

5. **Claims 10 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Reynolds** et al., in view of **Thurston** et al.; **Yoshida** and **Yuen**, further in view of US Pub.2002/0129362 by **Chang** et al.

**Regarding to claims 10:** The picture receiver of claim 9, Reynolds, Thurston, Yoshida and Yuen teach wherein the picture displaying unit shifts a mode from a two-picture display wherein the recommended program and the currently viewed program are displayed to a one-picture display of the currently viewed program when the first key or the second key is pressed. However, Reynolds, Thurston, Yoshida and Yuen are missing when either the first key or the second key is not pressed for a predetermined time, the picture displaying unit shifts a mode from a two-picture display wherein the recommended program and the currently viewed program are displayed to a one-picture display of the currently viewed program.

In an analogous art directed toward a similar problem namely improving the results from when either the first key or the second key is not pressed for a predetermined time the



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picture displaying unit shifts a mode from a two-picture display to a one-picture display. Fig. 5 of Chang illustrates a dynamic commercial selection procedure in accordance with the invention which allows the user to select between commercials during a commercial time slot, without changing the television channel. Main commercial 602 plays with corresponding audio, whereas alternative commercials 604, 606 superimposed in smaller windows (PIP) with the main commercial play without sound as shown in Fig. 6, the selected commercial is displayed on the entire screen; the PIP windows may be caused to disappear for a predetermined time. The system can also be designed such that if no PIP window is selected within a predetermined time, such as 10 seconds, the PIP windows disappear. **(Chang, ¶0057; ¶0058)** meets the limitation of **when either the first key or the second key is not pressed for a predetermined time the picture displaying unit shifts a mode from a two-picture display to a one-picture display**. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention was made to modify **a remote controller operation guide of Yoshida on *the picture displaying unit of Reynolds* and the recommended program on EPG list of Thurston and the functional key pads as taught by Yuen including automatic shift mode as taught by Chang** in order to allow the selected commercial is played during the detected commercial slot as a substitute for the commercial broadcast on the television channel.(Abstract)

**Regarding to claims 12:** merely repeats the same limitation of claim 10, claim 12 is rejected on the same ground as discussed in claim 10 by combination of Reynolds, Thurston ,Yoshida, Yuen and Chang.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 4, 9-12 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Reynolds et al. cannot teach that a picture display unit displays the recommended program and a currently viewed program simultaneously, **only when the program recommending unit judges that the recommended program is other than the currently viewed program**, as required by claim 1 (emphasis added). (Remark page 6). Examiner respectfully disagrees.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case; Fig. 6a, 6b of Reynolds shows **a picture displaying unit [48] configured to display the recommended program** (i.e. interested in a program on channel 11 on sub- window [80]) **and currently viewed program simultaneously** (i.e. channel 5 on main-screen [72]), **(Reynolds, col. 8 lines 23-48)**, modifying the missing of Reynolds; Fig. 1 of Thurston illustrates **a program recommending unit** (i.e. EPG program) **configured to recommend a program** (i.e. TV program) **that is available to be received** by [140] from [110] **based on the obtained viewing information and the accumulated program information** (i.e. viewing history information) **as a recommended program. (Thurston, Abstract, ¶0016-¶0024)**. Therefore, it would have been obvious to a person with ordinary skill in the art to modify the picture displaying

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unit of Reynolds including the program recommending unit as taught by Thurston teach the limitation of claim **“only when the program recommending unit judges that the recommended program is other than the currently viewed program (i.e. video display on main-screen for channel 5), (i.e. sub screen [80] displays the different program that is browsed by user remote control cursor key 54; example: “STAR TREK” at channel 11 of Fig. 6b or “DEEP SPACE NINE” at channel 14 of Fig. 7); (Reynolds, col. 8 line 49-col. 9 line 12).**

### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALAN LUONG/  
Examiner, Art Unit 2427

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427